THE HONOURABLE SRI JUSTICE J. CHELAMESWAR
AND
THE HONOURABLE SRI JUSTICE D. APPA RAO

W.P. NO. 13802 of 2006

Dated: 07.07.2006

Between:-

M/s Sri Ram Enterprises, Cheepurupalli, Srikakulam District, represented by its Proprietor, Mr. Gopal Tiwari.

…Petitioner

And

1. The Commercial Tax Officer, South Vizianagaram,
2. The Deputy Commissioner (CT) Vizianagaram Division, Vizianagaram,
3. The Joint Commissioner ()CT) Legal Andhra Pradesh, Nampally, Hyderabad.

…Respondents.

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O R D E R (per Hon'ble Sri Justice D. Appa Rao)

Heard the learned counsel for both sides and with their consent the writ petition is being disposed of at the stage of admission.

The controversy is that pending an appeal an application for stay was dismissed by the 3rd respondent.

The writ petitioner is a dealer under Andhra Pradesh General Sales Tax Act, 1957 and the Central Sales Tax Act, 1956 and is an assessee on the rolls of the 1st respondent. He is carrying on business in purchase and sale of pulses and oil seeds. For the assessment year 2002-2003, the petitioner claimed exemption alleging that the seeds were purchased on behalf of non-resident principals. The 1st respondent assessing authority while finalizing the assessment has allowed exemption. However, the 2nd respondent has revised the said assessment and disallowed the deduction.

Aggrieved by the same, he preferred an appeal before the Sales Tax Appellate Tribunal. While the appeal is pending, he moved stay application before the 3rd respondent seeking stay of collection of disputed tax. When the stay application was dismissed, he filed this writ petition questioning the orders.

We have gone through the record and we are of the opinion that the interest of justice would have been met if stay was granted pending appeal on some terms. Therefore, there shall be stay of collection of disputed tax, pending disposal of the appeal, subject to the petitioner depositing half of the disputed amount within six weeks. The amount, if any, paid towards the said tax shall be given credit to.

The writ petition is disposed of accordingly. No costs.

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J. CHELAMESWAR, J

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D. APPA RAO, J

7th July, 2006
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